

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
JONESBORO DIVISION**

BILL ELLIOTT, as Administrator of
the Estate of Kelly Elliott, Deceased

PLAINTIFF

v.

No. 3:12CV00152 JLH

HAMILTON STEVENSON;
DOUBLE J TRANSPORT, LLC;
FRANK L. JACKSON, JR.;
ERIC JOHNSON; and JOHN DOES 1-10

DEFENDANTS

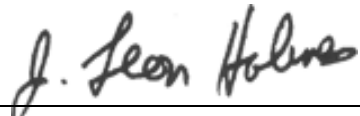
ORDER

Bill Elliott, as Administrator of the Estate of Kelly Elliott, Deceased, has filed a motion to strike the answers of the defendants and for default judgment against them, arguing that the defendants have failed to engage in discovery. As the record amply demonstrates, this action has been defended from its inception by the insurer for Double J Transport, LLC, which employed Hamilton Stevenson, who was driving the tractor/trailer rig that collided with Kelly Elliott's automobile, allegedly due to Stevenson's negligence, causing the death of Kelly Elliott. Lawyers for both the plaintiff and the defendants tried, without success for an extended period of time, to locate Stevenson and Double J Transport. It appears that Double J Transport has now been located and is participating in discovery, even though it is no longer in business. According to answers to interrogatories, Double J Transport admits that Stevenson was acting in the course and scope of his employment at the time of the collision in question. Consequently, any fault of Stevenson will be attributed to Double J Transport. Because Double J Transport has finally been located and appears to be cooperating in discovery, and because Double J Transport has admitted the fact that would make it liable in respondeat superior for the actions of Stevenson, the Court believes that striking the

answers and entering a default judgment would be unduly harsh. The motion is therefore denied.

Document #30.

IT IS SO ORDERED this 4th day of September, 2013.



J. LEON HOLMES
UNITED STATES DISTRICT JUDGE